

**IN THE HIGH COURT OF JUDICATURE, ANDHRA
PRADESH
AT HYDERABAD**

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.6753 of 1997

Dated: November 21, 2006

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Between:

M/s. Shanti Alloys Pvt. Ltd., formerly M/s. Shanti
Castings, Plot No.57, IDA, Thumakunta, Hindupur,
Anantapur district.

... Petitioner

And

The A.P. State Electricity Board, rep. by its Chairman,
Vidyut Soudha, Somajiguda, Hyderabad, and others.

... Respondents

Order:

This Writ Petition has been filed seeking Mandamus to declare the action of the respondents in not restoring power supply to the petitioner as arbitrary and illegal and a consequential direction to the respondents to restore power supply to the petitioner by accepting a sum of Rs.4,35,138/- towards the bill for the month of February, 1997.

2. Heard learned counsel for the petitioner and learned Standing Counsel appearing on behalf of the respondents.

3. Petitioner, a Private Limited Company engaged in the business of manufacture of steel castings, claims to have been commissioned in January, 1988 in Ananthapur district, which has been declared as an intensive industrial development area by the State Government, vide G.O.Ms.No.375 dated 23-08-1985. The case of the petitioner is that the State Government, by the aforesaid G.O., announced certain incentives to new industries set up in the industrial development areas, which include 15% cash subsidy, 25% concession on power tariff etc. for the first five years, out of which rebate for the first three years would be granted by the A.P. State Electricity Board and the next two years by the Department of Industries, Government of Andhra Pradesh. Petitioner claims to have fulfilled all the conditions that are necessary for availing the incentives granted by the respondents. Initially, the claim of the petitioner for 25% rebate is said to have been rejected by the APSEB on the ground that the Board issued B.P.M.S.No.946 dated 14-10-1987 wherein Mini Steel Plants are ineligible for grant of concession. The case of the petitioner is that it does not come under the heading 'Steel Plant' as it manufactures steel castings.

4. Challenging the action of the respondents in denying rebate to it, petitioner filed W.P.No.1242 of 1989 before this court. This court

admitted the said Writ Petition and granted interim directions to the respondents to grant 25% rebate to the petitioner. Thereafter, by order dated 13-09-1992, the said Writ Petition was allowed. Pursuant to the interim orders of this court, rebate was granted to the petitioner for the period from 12-01-1988 to 11-01-1991. Against the order of this court dated 13-09-1992, APSEB had filed a Special Leave Petition before the Supreme Court of India. The same was allowed by order dated 01-03-1996 on the ground that the issue involved therein is covered by judgment of the Supreme Court in **APSEB and others V. M/s. Sarada Ferro Alloys Ltd.**^[1]. On petitioner filing review petition against the order dated 01-03-1996, in Review Petition No.1334 of 1996, the same was allowed by order dated 21-03-1997 and APSEB was permitted to prefer an appeal before a Division Bench of this court against the order of the learned single Judge dated 13-09-1992 passed in W.P.No.1242 of 1989.

5. After the Special Leave Petition filed by APSEB was allowed, respondents had issued demand notice asking the petitioner to pay a sum of Rs.64,45,57.43. Ps. towards rebate of 25% availed by the petitioner pursuant to the order of the learned single of this court in the aforesaid Writ Petition. When petitioner had filed an application requesting for permission to pay the said amount in installments, it was permitted to pay the said amount in 20 equal fortnightly installments, out of which petitioner is said to have paid four fortnightly installments

amounting to Rs.12,89,568/-. In view of the judgment of the Supreme Court allowing the review petition, petitioner made a representation to the respondents to adjust the amount of Rs.12,89,568/- paid by it by way of installments pursuant to the judgment of the Supreme Court in the S.L.P., towards the payment of the bill for the month of February, 1997 which was for Rs.17,24,708/, and to accept an amount of Rs.4,35,138/- being the balance amount after adjustment of Rs.12,89,568/-. When the respondents did not adjust the said amount as aforesaid and disconnected the power supply to the petitioner unit, it had come up with this Writ Petition.

6. This court by order dated 02-04-1997, passed in W.P.M.P.No.8072 of 1997 directed the respondents to restore power supply to the petitioner by adjusting a sum of Rs.12,89,570/- against the bill for the month of February, 1997, pending further orders.

7. Respondents have filed counter affidavit admitting the factual scenario. However, it is stated that there is no order from the Supreme Court for refund of the amount paid by the petitioner in four fortnightly installments pursuant to the demand made by them.

8. When the matter has come up on the earlier occasion, learned Standing Counsel sought time to ascertain whether any Writ Appeal has been preferred against the order of this court dated 13-09-1992, passed in W.P.No.1242 of 1989, after disposal of the review petition by

the Supreme Court. Today, when the matter is taken up, learned Standing Counsel submitted that against the order of the learned single Judge of this court, no appeal has been preferred. He would only contend that as much as there is no order from the Supreme Court to refund the amount paid by the petitioner, petitioner is not entitled for adjustment of an amount of Rs.12,89,568/- which was paid by it in four fortnightly installments pursuant to the demand made by the Board.

9. The contention of the learned Standing Counsel cannot be accepted for the reason that this court in W.P.No.1242 of 1989 had held that petitioner is entitled for rebate of 25% for the first three years from the Board in terms of the orders issued by the Government of Andhra Pradesh in G.O.Ms.No.375 dated 23-08-1985. It is to be noted that as per the policy framed by the Government, petitioner has also claimed that it is entitled for rebate for the next two years from the Industries Department of the State. Claiming such relief, petitioner had filed W.P.No.2519 of 1995 and the same was allowed by this court directing the respondents to grant rebate for two years from the Industries Department and the same has also become final. As much as the review petition filed by the petitioner against the order dated 01-03-1996 was allowed by the Supreme Court and no appeal was preferred by the APSEB against the order of the learned single Judge of this court, it is not open for the respondents to retain an amount of Rs.12,89,568/- which was paid by the petitioner in four fortnightly

installments pursuant to the demand made by them. The said amount was paid by the petitioner consequent to the order of the Supreme Court in the S.L.P. filed by APSEB, which, on review petition being filed by the petitioner was set aside and it was kept open for the APSEB to file an appeal before this court against the order of the learned single Judge in W.P.No.1242 of 1989. As much as no appeal has been preferred by APSEB against the order of the learned single Judge, the order of the learned single Judge in W.P.No.1242 of 1989 has become final.

10. In that view of the matter, petitioner is entitled for refund of an amount of Rs.12,89,568/- which was paid by it in four fortnightly installments. As much as it is not in dispute that the consumption bill for the month of February, 1997 is Rs.17,24,708/-, and petitioner is entitled to be refunded an amount of Rs.12,89,568/-, the balance amount payable by the petitioner towards the said bill comes to Rs.4,35,138/-, which, in fact, has been stated to have been paid by the petitioner, pursuant to interim order passed by this court, and, whereupon, the supply was stated to have been restored. Therefore, taking both the amounts into account, the bill for the month of February, 1997 stands paid.

11. For the reasons stated above, the interim order passed on 02-04-1997 is made absolute and the Writ Petition is disposed of accordingly. No costs.

JUSTICE R. SUBHASH REDDY.

November 21, 2006
MRR

[\[1\]](#) AIR 1993 SC 1543